

**MICHIGAN ELECTION LAW (EXCERPT)**  
**Act 116 of 1954**

**168.871 Recount; counting of paper ballots; use of electronic voting system; use of voting machines; recount of absent voter ballots; ballots ineligible for recount; procedures for conduct of recount; use of computer; testing software application.**

Sec. 871. (1) In a precinct using paper ballots, the board of canvassers conducting a recount pursuant to this chapter shall conduct the recount, subject to all of the following:

(a) The ballots in packages or ballot bags that are secured and sealed so that a ballot cannot be removed or inserted unless the ballot corresponds in number with the poll list delivered to the appropriate clerk by the board of election inspectors, shall be recounted even though the ballot box or other ballot container is not securely sealed with the seal of record.

(b) If the ballot box or other ballot container is securely sealed with the seal of record, only the ballots that correspond in number with the poll list delivered to the appropriate clerk by the board of election inspectors shall be recounted even though the ballots are not secured and sealed in packages or ballot bags.

(c) If the ballot box or other ballot container is not securely sealed or if the seal on the ballot box or other ballot container is not the seal of record and the ballots in packages or ballot bags are not secured and sealed so that a ballot cannot be removed or inserted, the ballots shall not be recounted and the original count of the ballots as reported by the board of election inspectors shall stand as the correct count.

(d) If the number of ballots in a secured and sealed package or bag and the number of ballots issued on election day as shown on the poll list do not match and the difference is not explained to the satisfaction of the board of canvassers, the ballots shall not be recounted and the original count of the ballots as reported by the board of election inspectors shall stand as the correct count.

(2) Except as otherwise provided in this section, the board of canvassers conducting a recount pursuant to this chapter shall recount all ballots of a precinct using an electronic voting system unless 1 or more of the following circumstances exist:

(a) The seal on the transfer case or other ballot container is broken or bears a different number than that recorded on the poll book, the breaking or discrepancy is not explained to the satisfaction of the board of canvassers, and security of the ballots has not been otherwise preserved.

(b) The number of ballots to be recounted and the number of ballots issued on election day as shown on the poll list or the computer printout do not match and the difference is not explained to the satisfaction of the board of canvassers.

(c) The seal used to seal the ballot label assembly to a voting device in the precinct is broken or bears a different number than that recorded in poll records and the ballot labels or rotation of candidates' names is different than that shown by other voting devices in the precinct and records of the board of election commissioners.

(3) In a precinct in which voting machines are used, the board of canvassers conducting a recount pursuant to this chapter shall recount all voting machines used in the precinct unless 1 or more of the following circumstances exist:

(a) All voting machines used in a precinct shall not be recounted if the sum of the numbers appearing on the public counters of all voting machines used in the precinct exceeds the total number of voters who voted in the precinct as shown by the poll book, plus the number of times the machine was operated by the inspectors of election and custodians, as shown by the record of the board of election inspectors, and the excess is not explained to the satisfaction of the board of canvassers by the inspectors of election of that precinct.

(b) A voting machine used in a precinct shall not be recounted if the voting machine is not sealed with the seal of record in such a manner as to render it impossible to vote on the machine or to otherwise change the totals appearing on the individual candidate or ballot question counters.

(c) A voting machine used in a precinct shall not be recounted if the number appearing on the protective counter of the voting machine at the time of the recount does not equal the sum of the number appearing on the protective counter at the opening of the polls as shown by the certificate of the board of election inspectors and the number appearing on the public counter at the time of the recount.

(4) In a precinct in which voting machines are used, which precinct cannot be recounted under subsection (3), absent voter ballots tallied in that precinct shall not be recounted unless recorded separately. This section does not prohibit the recounting of absent voter ballots tallied in a precinct using an absent voter counting board or in a precinct in which 1 or more voting machines are recountable, if the absent voter ballots are securely packaged and sealed.

(5) If a board of canvassers conducting a recount pursuant to this chapter determines that the ballots of a

precinct are not eligible for recount under this section, the original return of the votes for that precinct shall be taken as correct.

(6) A board of canvassers conducting a recount pursuant to this chapter may conduct a recount by the following means:

(a) A manual tally of the ballots.

(b) A tabulation of the ballots on a computer using a software application designed to specifically count only the office or ballot question subject to the recount.

(c) A tabulation of the ballots on a computer using the same software application used in the precinct on election day.

(d) Any combination of methods in subdivision (a), (b), or (c), as determined appropriate by the board of canvassers.

(7) If a board of canvassers conducting a recount pursuant to this chapter intends to conduct a recount on a computer, the board of canvassers shall first test the software application by use of a test deck to determine if the program accurately counts the votes for the office or ballot question subject to the recount. If the test under this subsection fails to show that the software application accurately counts the votes for the office or ballot question subject to the recount, the board of canvassers shall use another means prescribed in subsection (6) to conduct the recount.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1965, Act 96, Imd. Eff. June 28, 1965;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 1996, Act 583, Eff. Mar. 31, 1997;—Am. 2000, Act 207, Imd. Eff. June 27, 2000.

**Popular name:** Election Code